

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10700 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

RAMESHBHAI @ MANSUKHBHAI G WAGHRI

Versus

STATE OF GUJARAT

Appearance:

MS SUMAN PAHWA for M/S THAKKAR ASSOC. for Petitioner
MS PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 20/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 18th October, 1998, made by the Commissioner of Police, Rajkot City, under the powers conferred upon him under sub-section (1) of section 3 of

the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

It is alleged that the petitioner is a 'dangerous person' within the meaning of section 2 (c) of the Act, and his activities are prejudicial to the maintenance of public order. Some 7 offences punishable under sections 454, 457 and 380 IPC are registered against the petitioner during the years 1993, 1994, 1997 and 1998. In respect of all the aforesaid offences, the petitioner was arrested on 19th October, 1998 and is in judicial custody. All the above referred cases are pending investigation. Besides, some more evidence has been collected by the police. Two witnesses, whose names and other particulars are withheld, have made statements in respect of nefarious activities of the petitioner.

It is contended that the petitioner has made a representation to the Detaining Authority on 11th December, 1998, which was delivered in the office of the Detaining Authority on 14th December, 1998. The acknowledgment thereof was received back by the sender on 16th December, 1998. Though the representation was delivered on 14th December, 1998, the same was not forwarded to the State Government till 21st December, 1998. Thus, the Detaining Authority has failed to deal with the representation of the petitioner expeditiously and has caused an undue and unexplained delay of six days. The contention is opposed by the learned AGP. It is submitted that the representation made by the petitioner was received by the office of the Detaining Authority on 18th December, 1998. It is recorded in the Inward Register also on 18th December, 1998. Upon perusal of the AD slip, it is evident that the post was delivered in the office of the Commissioner of Police on 14th December, 1998. There being a documentary evidence in support of the contention raised on behalf of the petitioner, the assertion made by the Detaining Authority on oath can not be believed. There is no explanation forth-coming as to how the representation was dealt with between 14th December 1998 and 18th December 1998. It must, therefore, be inferred that the representation made on behalf of the petitioner remained unattended from 14th December, 1998 till 18th December, 1998, the day on which it was entered in the Inward Register. This indifference towards the representation made against the order of detention, is sufficient to vitiate the continued detention of the petitioner.

Petition is, therefore, allowed. The impugned order dated 18th October, 1998 (Annexure-A to the

petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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JOSHI